

**United States District Court  
Central District of California**

UNITED STATES OF AMERICA vs.

Docket No. CR 11-711-RCF (N0432500)Defendant Brett J. GarnerSocial Security No. 3 0 2 8akas: n/a

(Last 4 digits)

**JUDGMENT AND PROBATION/COMMITMENT ORDER**

In the presence of the attorney for the government, the defendant appeared in person on this date.

MONTH	DAY	YEAR
08	18	2011

COUNSEL

☒ **WITH  
COUNSEL**
Sonja Augustine, DFPD

(Name of Counsel)

PLEA

☒ **GUILTY**, and the court being satisfied that there is a factual basis for the plea.

☐ **NOLO  
CONTENDERE**
☐ **NOT  
GUILTY**

FINDING

There being a finding/verdict of ☒ **GUILTY**, defendant has been convicted as charged of the offense(s) of:  
California Vehicle Code 23103.5- Reckless Driving With The Use Of Alcohol, (Wet Reckless),  
a Class B misdemeanor

**JUDGMENT  
AND PROB/  
COMM  
ORDER**

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is sentenced as follows:

It is the judgment of the Court that the imposition of jail time shall be suspended and the defendant shall be placed on supervised probation for a period of three years under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the Probation Office and General Order 05-02.
2. The defendant shall participate in an alcohol monitoring program, and shall observe all rules of the program, as directed by the Probation Officer. The Probation Officer shall have the discretion to discontinue the alcohol monitoring program upon the defendant's successful completion of a continuous period of alcohol monitoring of no less than 120 days. The defendant shall pay the costs of alcohol monitoring to the contract vendor, not to exceed the sum of \$20.00 for each day of participation. The defendant shall provide payment and proof of payment as directed by the Probation Officer. The Probation Officer shall have the discretion to waive payment for the program if the Probation Officer determines the defendant is unable to make any payment.
3. The defendant shall complete 100 hours of community service.
4. The defendant shall abstain from alcohol and any unlawful use of a controlled substance, and shall refrain from abusing prescription medications during the period of supervision.
5. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, not to exceed eight (8) tests per month, as directed by the Probation Officer.

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6. The defendant shall abstain from using alcohol during the period of supervision, and shall submit to Breathalyzer tests, not to exceed eight (8) tests per month, to determine if the defendant has consumed alcohol.
7. The defendant shall participate in an outpatient substance abuse testing and treatment program that includes urinalysis, saliva and/or sweat patch testing, as directed by the Probation Officer.
8. During the course of supervision, the Probation Officer, with the agreement of the defendant and defense counsel, may place the defendant in a residential alcohol treatment program approved by the United States Probation Office for treatment of alcohol abuse or alcohol dependency, which may include counseling and testing, to determine if the defendant has reverted to the use of alcohol, and the defendant shall reside in the treatment program until discharged by the Program Director and Probation Officer.
9. As directed by the Probation Officer, the defendant shall pay all or part of the costs of alcohol dependency treatment to the aftercare contractor during the period of community supervision, pursuant to 18 U.S.C. § 3672. The defendant shall provide payment and proof of payment as directed by the Probation Officer.
10. The defendant shall submit to and complete tests of his/her breath, blood, or urine when requested by a peace officer, or as requested by the Probation Officer upon reasonable cause to believe the defendant is using illegal drugs or using alcohol.
11. The defendant shall comply with all rules and regulations of any applicable military installation and of the Department of Motor Vehicles. The defendant shall not operate any vehicle unless granted permission to do so via a valid State issued driver's license.
12. During the period of community supervision, the defendant shall pay the fine and special assessment in accordance with this judgment's orders pertaining to such payment.
13. The defendant shall register with the Probation Office within 72 hours from the day sentence is imposed.

IT IS FURTHER ORDERED that the defendant shall pay a fine of \$400.00, a mandatory Special Assessment of \$10.00. Defendant shall pay the fine and special assessment in monthly installments of no less than \$50.00 per month. The payments shall begin thirty (30) days after the commencement of supervision.

The defendant is advised of his right to appeal within 14 days of judgment.

The fine and special assessment shall be mailed to:

United States District Court  
312 N. Spring Street  
Fiscal Department, Room 529  
Los Angeles, California 90012-4797

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In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

AUG 23 2011  
Date

  
RITA COYNE FEDERMAN  
United States Magistrate Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Terry Nafisi, Clerk

AUG 23 2011  
Filed Date

By

  
Deputy Clerk

—Stephanie M. Lee—

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

#### STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependents and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. the defendant shall notify the probation officer at least 10 days prior to any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
11. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
14. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to conform the defendant's compliance with such notification requirement;
15. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours;
16. and, for felony cases only: not possess a firearm, destructive device, or any other dangerous weapon.

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☐ The defendant will also comply with the following special conditions pursuant to General Order 01-05 (set forth below).

#### **STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS**

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15<sup>th</sup>) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
  - Private victims (individual and corporate),
  - Providers of compensation to private victims,
  - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and
5. Other penalties and costs.

#### **SPECIAL CONDITIONS FOR PROBATION AND SUPERVISED RELEASE**

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

#### **RETURN**

I have executed the within Judgment and Commitment as follows:

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Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
 Defendant noted on appeal on \_\_\_\_\_  
 Defendant released on \_\_\_\_\_  
 Mandate issued on \_\_\_\_\_  
 Defendant's appeal determined on \_\_\_\_\_  
 Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
 at \_\_\_\_\_  
 the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

Date \_\_\_\_\_

By \_\_\_\_\_  
Deputy Marshal**CERTIFICATE**

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

AUG 23 2011

Filed Date \_\_\_\_\_

Clerk, U.S. District Court

By \_\_\_\_\_

Deputy Clerk

-Stephanie M. Lee-

**FOR U.S. PROBATION OFFICE USE ONLY**

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) \_\_\_\_\_  
 Defendant

Date \_\_\_\_\_

U. S. Probation Officer/Designated Witness \_\_\_\_\_

Date \_\_\_\_\_